

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 466

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE OFFICE OF THE INSPECTOR GENERAL; AMENDING TITLE 74, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE, TO ESTABLISH THE OFFICE OF THE INSPECTOR GENERAL, TO ESTABLISH THE POWERS OF THE INSPECTOR GENERAL, TO CLARIFY THE APPLICABILITY OF CERTAIN LAWS, TO EXEMPT THE LEGISLATIVE AND JUDICIAL BRANCHES OF GOVERNMENT FROM THE PROVISIONS OF THIS ACT, TO PROVIDE THAT STATE AGENCIES AND OFFICERS SHALL MAKE CERTAIN REPORTS TO AND COOPERATE WITH THE INSPECTOR GENERAL, TO PROVIDE THAT THE INSPECTOR GENERAL MAY ENTER CERTAIN PREMISES, QUESTION CERTAIN PERSONS AND INSPECT CERTAIN MATERIALS IN INVESTIGATIONS, TO PROVIDE THAT THE INSPECTOR GENERAL AND INVESTIGATORS FOR THE INSPECTOR GENERAL SHALL HAVE CERTAIN AUTHORITY, TO PROVIDE THAT THE INSPECTOR GENERAL AND THE INSPECTOR GENERAL'S SUBORDINATES MAY ISSUE CERTAIN SUBPOENAS OR SEEK CERTAIN SUBPOENAS FROM COURTS, TO PROVIDE THAT THE INSPECTOR GENERAL SHALL MAKE CERTAIN REPORTS AND TO PROVIDE THAT THE PROVISIONS OF THIS CHAPTER SHALL NOT LIMIT THE LEGISLATURE IN REVIEWING THE OPERATIONS OF STATE AGENCIES; AND AMENDING CHAPTER 20, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2027, IDAHO CODE, TO PROVIDE THAT THE BOARD OF EXAMINERS SHALL APPOINT AN INSPECTOR GENERAL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 74, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 6, Title 74, Idaho Code, and to read as follows:

CHAPTER 6

OFFICE OF THE INSPECTOR GENERAL

74-601. OFFICE OF THE INSPECTOR GENERAL ESTABLISHED. There is hereby established the office of the state inspector general, which shall be headed by a state inspector general appointed by the board of examiners subject to confirmation by the senate. The state inspector general shall be appointed for a six (6) year term.

(1) Vacancies shall be filled by appointment by the board of examiners for the unexpired term and shall be effective until thirty (30) days after the next ensuing legislative session and, if confirmed, thereafter for the remainder of such term.

(2) The state inspector general shall be removed from office only upon impeachment and conviction or, subject to consent of the senate, by unanimous vote of the board of examiners for malfeasance, incompetence, neglect of duty or criminal conviction.

74-602. POWERS OF INSPECTOR GENERAL -- APPLICATION OF LAWS. (1) The state inspector general shall exercise the powers and perform the duties as

1 provided by law. The state inspector general shall be responsible for the  
2 overall supervision of the office.

3 (2) The state inspector general shall have the power to:

4 (a) Operate and manage the office and employ such personnel as may be  
5 required to carry out the provisions of this chapter;

6 (b) Make and enter into contracts and agreements as may be necessary and  
7 incidental to carry out the provisions of this chapter;

8 (c) Apply for and accept grants from the United States government and  
9 agencies and instrumentalities thereof, and any other source, in fur-  
10 therance of the provisions of this chapter, provided that requirements  
11 other than accounting and reporting attendant to receipt of any grants  
12 from the United States government or its agencies be specifically ap-  
13 proved by the legislature prior to expenditure of such funds;

14 (d) Receive complaints from whatever source that allege fraud, waste,  
15 including task or program duplication, abuse or corruption by a state  
16 agency or political subdivision or by any officer or employee of the  
17 foregoing and determine whether the complaints give reasonable cause to  
18 investigate;

19 (e) Investigate the management and operations of state agencies or po-  
20 litical subdivisions to determine whether acts of fraud, waste, abuse  
21 or corruption have been committed or are being committed by state or po-  
22 litical subdivision officers or employees, including any allegations  
23 of criminal acts affecting the operations of the state government or a  
24 political subdivision;

25 (f) Receive a report by any person who has reason to believe that an  
26 elected official has committed a criminal violation, is in the process  
27 of committing a criminal violation or is about to commit a criminal vi-  
28 olation. If a report under this paragraph is received by the inspector  
29 general, the inspector general shall file the report as soon as practi-  
30 cable with the attorney general. Upon request of the attorney general,  
31 the inspector general shall conduct an investigation of an elected of-  
32 ficial to determine whether a criminal violation has occurred, is oc-  
33 ccurring or is about to occur. No such investigation of an elected offi-  
34 cial shall be undertaken, except at the specific direction or request of  
35 the attorney general;

36 (g) Conduct an independent investigation of the attorney general in the  
37 event that the inspector general receives a report or complaint of acts  
38 of fraud, waste, abuse or corruption within the office of the attorney  
39 general. The inspector general shall deliver a report of such investi-  
40 gation to the governor, the attorney general, the president pro tempore  
41 of the senate, the speaker of the house of representatives, and the mi-  
42 nority leaders of the senate and the house of representatives;

43 (h) Prepare a report of each investigation stating whether fraud,  
44 waste, abuse or corruption has been detected. If fraud, waste, abuse or  
45 corruption is detected, the report shall:

46 (i) Identify the person committing the wrongful act or omission;

47 (ii) Describe the wrongful act or omission; and

48 (iii) Describe any corrective measures taken by the state agency  
49 in which the wrongful act or omission was committed to prevent re-  
50 currences of similar actions;

(i) Provide timely notification to the attorney general and law enforcement agencies whenever the state inspector general has reasonable grounds to believe there has been a violation of state criminal law affecting operations of the state government or a political subdivision;

(j) Assist citizens in understanding their rights and the processes available to them to express concerns regarding the activities of the state government or a political subdivision;

(k) Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter;

(l) Upon request, assist citizens in using the procedures and processes available to express concerns regarding the activities of the state government or a political subdivision;

(m) Ensure that citizens have access to the services provided by the state inspector general and that citizens receive timely responses to their inquiries from the state inspector general or his representatives; and

(n) Perform all acts necessary or convenient to carry out the purposes of this chapter.

(3) Except upon a finding by the inspector general of fraud, waste, abuse or corruption, a complaint received and documents or materials relating to an investigation of such complaint conducted pursuant to this chapter are exempt from public disclosure provided by chapter 1, title 74, Idaho Code.

(4) The legislative and judicial branches of state government are exempt from the provisions of this chapter.

74-603. COOPERATION OF STATE AGENCIES AND OFFICERS. (1) Each state agency and every officer shall:

(a) Promptly report to the inspector general any complaints received alleging criminal acts, fraud, waste, abuse or corruption within any agency, office or political subdivision of the state; and

(b) Cooperate with, and provide assistance to, the state inspector general in the performance of any investigation. Each state agency shall make its premises, equipment, personnel, books, records and papers readily available to the state inspector general upon request.

(2) When a state agency head or officer discovers any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or if it comes to his attention that any unauthorized, illegal, or unsafe handling or expenditure of state funds is contemplated but not consummated, he shall promptly report the same to the state inspector general.

(3) The state inspector general may enter upon the premises of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation. In the course of an investigation, the state inspector general may question any officer or employee serving in, and any person transacting business with, the state agency and may inspect and copy any books, records or papers in the possession of the state agency. The state inspector general shall preserve the confidentiality of any information obtained from a state agency or individual during the course of an investigation in accordance with applicable state and federal law.

1       74-604. AUTHORITY OF INSPECTOR GENERAL AND INVESTIGATORS. (1) The  
2 state inspector general or investigators appointed by him shall be sworn to  
3 enforce the statutes and rules pertaining to the office. The investigators  
4 appointed by the state inspector general shall have the same investigative  
5 authority as the state inspector general.

6       (2) All investigators appointed by the state inspector general are  
7 vested with the authority to administer oaths or affirmations for the pur-  
8 pose of receiving complaints and conducting investigations of violations of  
9 the statutes and rules of the state.

10       74-605. SUBPOENAS. (1) The state inspector general or a designated  
11 subordinate may issue a subpoena for the appearance of an individual at a  
12 deposition or for examination of documents, electronic files, or any other  
13 form of records pertinent to an investigation conducted by the office. The  
14 subpoena shall be served by the state inspector general or a designated sub-  
15 ordinate and enforced by the court of that jurisdiction.

16       (2) The state inspector general or a designated subordinate may make an  
17 ex parte application to the district court for the county in which evidence  
18 sought is kept for the issuance of a subpoena duces tecum in furtherance of  
19 an investigation or to request production of any relevant records, documents  
20 and physical or other evidence of any person, partnership, association or  
21 corporation located in the state. The court may issue and compel compliance  
22 with such a subpoena upon a showing of reasonable cause. Upon determining  
23 that reasonable cause exists to believe that evidence may be destroyed or al-  
24 tered, the court may issue a subpoena duces tecum requiring the immediate  
25 production of evidence.

26       74-606. REPORTS. (1) The state inspector general shall prepare an  
27 annual report, submitted to the governor, the joint finance-appropriations  
28 committee, the senate state affairs committee and the house state affairs  
29 committee, no later than January 10 of each year, summarizing the activities  
30 of the office. Such report shall include, but need not be limited to:

31       (a) A description of any significant problems, abuses and deficiencies  
32 related to the management or operation of state agencies and political  
33 subdivisions during the reporting period;

34       (b) A description of the recommendations for any corrective actions  
35 made by the office during the reporting period with respect to signifi-  
36 cant problems, abuses or deficiencies identified;

37       (c) A summary of matters referred to the attorneys for the attorney gen-  
38 eral and law enforcement agencies and actions taken on them during the  
39 reporting period;

40       (d) Information concerning the numbers of complaints received and  
41 types of investigations completed by the office during the reporting  
42 period; and

43       (e) The development and maintenance of internal audit programs in state  
44 agencies.

45       (2) The state inspector general shall notify the governor's office, the  
46 president pro tempore, majority leader and minority leader of the senate,  
47 and the speaker, majority leader and minority leader of the house of repre-

1     sentatives of problems, abuses or deficiencies relating to the management or  
2     operation of a state agency.

3         (3) At the conclusion of an investigation, the state inspector general  
4     shall provide a report of his findings and a recommendation to the agency or  
5     political subdivision that was investigated. When the state inspector gen-  
6     eral becomes aware of significant problems, abuses or deficiencies relating  
7     to the management or operation of a state agency, the state inspector general  
8     shall report the same immediately to the governor's office.

9         (4) Records that are confidential under federal or state law shall be  
10    maintained as confidential by the state inspector general and shall not be  
11    further disclosed, except as required by law.

12         74-607. OVERSIGHT OF LEGISLATURE NOT LIMITED. Nothing in this chap-  
13    ter shall be construed to limit or prevent the legislature from reviewing the  
14    operations of any state agency.

15         SECTION 2. That Chapter 20, Title 67, Idaho Code, be, and the same is  
16    hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
17    ignated as Section 67-2027, Idaho Code, and to read as follows:

18         67-2027. INSPECTOR GENERAL. The board of examiners shall appoint a  
19    state inspector general in accordance with the provisions of chapter 6, ti-  
20    tle 74, Idaho Code.